

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

**SERVANTS OF JESUS AND MARY, INC., d/b/a THE
FATIMA CENTER**

Plaintiff,

-vs-

**THE NATIONAL COMMITTEE FOR THE
NATIONAL PILGRIM VIRGIN OF CANADA, THE
FATIMA CENTER U.S.A., INC., and ANDREW
CESANEK,**

Defendants.

**AFFIDAVIT OF
ELLEN MONTGOMERY
IN SUPPORT OF
PLAINTIFF'S MOTION
FOR SUMMARY
JUDGMENT**

1:18-CV-00731-JJM

STATE OF FLORIDA)
)SS:
COUNTY OF BREVARD)

ELLEN MONTGOMERY, being duly sworn, deposes and says:

1. This affidavit is made upon my personal knowledge and submitted in support of Plaintiff's Servants of Jesus and Mary, Inc., d/b/a The Fatima Center ("Plaintiff" or "SJM") motion for partial summary judgment.

2. I am the Vice President of SJM. SJM is a New York not-for-profit corporation with its principal place of business located at 17000 State Route 30, Constable, New York 12926.

3. I was one of the founding members of SJM when it was formed as a spiritual group in 1978 and I have served as a member of SJM's board of directors since it was incorporated in 1988. In addition to the current position of Vice President, I have also previously served as SJM's President, Treasurer and its Secretary.

4. I am also a former member of Defendant The National Committee for the National Pilgrim Virgin of Canada, Inc. ("National Pilgrim"), starting in 1981.

5. I remained a member of National Pilgrim until 2017 when National Pilgrim's then president, Lenny Cecere ("Cecere") informed the SJM directors that our National Pilgrim memberships had lapsed.

6. I have never had any association with Defendant The Fatima Center U.S.A., Inc. ("Fatima Center U.S.A.") and SJM has never had any association with Fatima Center U.S.A.

7. Defendant Andrew Cesanek ("Cesanek") is a former employee of SJM and a former member of SJM's board of directors, having served as our vice president for many years.

8. I have reviewed letters sent to SJM donors and supporters by National Pilgrim and Fatima Center U.S.A., dated August 22, 2017 and September 1, 2017. *See* Exhibits 54 and 56.

9. The letters sent on behalf of National Pilgrim and Fatima Center U.S.A. included false and misleading statements indicating: (a) that "SJM was created to receive and process mail received within the United States"; (b) that it was merely "a mail processing facility"; (c) that it was "not involved in the creation and implementation of programs to achieve The Fatima Center's mission, nor in the writing or production of The Fatima Center literature, nor even in making decisions about the daily operations of SJM"; (d) that "[a]ll of [SJM's operations and programming were directed and/or] done by Father Gruner and The Fatima Center management team"; (e) that "[a]lthough your monthly payments were received and processed through Servants of Jesus and Mary, all funds were forwarded to the head office in Canada." *Id.*

10. SJM was not formed by Fr. Nicholas Gruner as a mail processing facility and did not operate as merely a mail processor on behalf of National Pilgrim.

11. SJM was formed in 1978 as an apostolate spiritual group of the Roman Catholic Church, under the spiritual leadership of Fr. Michael Jarecki, an ordained Roman Catholic priest. In 1981, Fr. Gruner was introduced to the members of SJM by Fr. Jarecki. Fr. Gruner was affiliated

with National Pilgrim at the time. Fr. Gruner asked SJM to assist him on matters of spiritual outreach and formation and on production and distribution of *The Fatima Crusader* (the “*Crusader*”) publication in the United States.

12. Fr. Gruner wanted to spread the “message of Fatima” throughout the United States in collaboration with an organization like SJM, which followed traditional Catholic doctrine. He asked SJM to support him in his work and we agreed to join him in spreading the Fatima message. He also invited the members of SJM to join National Pilgrim, which we did.

13. The first issue of the *Crusader* distributed with SJM’s involvement was *Crusader* Issue 9-10, which was published in 1982. *See* Exhibit¹ 13, SJM004810. SJM members labeled, sorted and mailed it out to United States residents. *Crusader* Issue 9-10 was the first *Crusader* issue in which United States residents could make tax-deductible donations to support Fr. Gruner’s work. Donors were encouraged to do this by sending their donations to SJM. *See* Exhibit 13, SJM004841. National Pilgrim was only able to issue Canadian tax exempt receipts. SJM has been recognized as a tax exempt organization by the Internal Revenue Service since 1982. Copies of SJM’s tax exempt application and IRS approval letter are included in Exhibit 8.

14. From the beginning of our work with Fr. Gruner and National Pilgrim, SJM’s involvement was promoted and its contributions were regularly acknowledged in issues of the *Crusader*. *See* Exhibit 13, SJM004841. For instance, many examples of references to SJM are found in *Crusader* Issue 13-14, which was published in 1983. *See* Exhibit 14, SJM004874, SJM004876, SJM004892, SJM004901, SJM004904, SJM004906, SJM004907. Samples of

¹ All references to “Exhibit” refer to the exhibits attached to the Declaration of Matthew J. Larkin, submitted in support of the motion. References to “SJM” followed by a six digit number or “NPV” followed by a five digit number refer to the Bates stamp on the cited exhibit.

additional references to SJM in excerpts of various issues of the *Crusader* published over several years are included in Exhibit 27.

15. *Crusader* mailings in the United States were paid for under an SJM bulk mailing permit. As SJM began to receive donations from United States residents, the funds were used by SJM to pay for the cost of the mailings and to hire an office manager who handled the donations and banking. Surplus funds were donated by SJM to National Pilgrim to pay for the production costs of the *Crusader*. SJM began operating a mail order bookstore and video store which sold books, videos and religious materials that it purchased from publishers and other sellers, including National Pilgrim.

16. In 1988, SJM became incorporated. Copies of SJM's Certificate of Incorporation and Bylaws are included in Exhibit 9. A letter written by Fr. Jarecki to the SJM employees describing SJM's history is included in Exhibit 11. Copies of excerpts of the minutes of various meetings of SJM's board of directors and member meetings are included in Exhibit 17.

17. When SJM incorporated, Fr. Jarecki was SJM's chairman and David Lamica was the incorporator. Fr. Gruner was a director of SJM, as was I under my former name, Ellen Tennyson. See Exhibit 9, SJM001155, SJM001137.

18. SJM was created for the purposes described in its Certificate of Incorporation and Bylaws: to spread and promote knowledge of and obedience to the message of Our Lady of Fatima and related matters; to promote the spiritual, intellectual and apostolic formation of workers for the message of Fatima; to maintain mailing lists and to mail and ship religious books, materials, publications, video and audio tapes and films; to promote knowledge of and devotion to the Blessed Virgin Mary; to facilitate broadcast of radio and television programs with respect to the Fatima message; to promote the *Fatima Crusader* magazine; to promote and aid regional centers,

organizations and individuals with similar purposes; and to promote pilgrimages to Fatima and approved apparition sites. *Id.*, SJM001152-001153 (Art. III); SJM001138-001139 (Art II). These purposes are not merely statements, they are the activities that we performed for decades.

19. Fr. Gruner did not create SJM but he was elected president of SJM in 1989. *See* Exhibit 17, SJM00416. From July 1989 until his death on April 29, 2015, Fr. Gruner served as president of both SJM and National Pilgrim. In addition to Fr. Gruner, Fr. Jarecki served on the boards of both organizations from the time of SJM's incorporation in 1988 until his death in 2012, and Fr. Victor Soroka also served on the boards of both organizations from 1988 until his death in 2008. *Id.*, SJM001935(9) (May 8, 2008 Minutes), SJM001958(4) (July 24, 2013 Minutes). In his capacity as president of both SJM and National Pilgrim, Fr. Gruner managed both organizations, with the consultation and support of the both boards of directors.

20. Under Fr. Gruner's leadership, SJM and National Pilgrim were jointly referred to as the "Apostolate" or "Our Lady's Apostolate." In 1994, Fr. Gruner began to refer to both organizations under the common name, "The Fatima Center." From 1994 until National Pilgrim severed its relationship with SJM in August 2017, the two organizations used the Fatima Center name in their promotional literature, conferences, educational materials and fund raising, examples of which are included in Exhibit 25.

21. The first use of the Fatima Center name on a *Crusader* in the United States was on the back cover of *Crusader* Issue 46 in reference to SJM. *See* Exhibit 23, SJM001559. A separate back cover was printed for the Canadian issue. *See* Exhibit 24, NPV07399.

22. On September 16, 2004, SJM filed an Assumed Name Certificate with the New York State Division of State for the name "The Fatima Center," "The Fatima Network" and "Fatima Network Television (FNTV)." *See* Exhibit 9, SJM001170-001171, SJM001169.

23. While SJM and National Pilgrim worked together for several years, SJM's Constable employees would receive all mail-in donations in the United States, account for the donations, handle bank deposits, prepare accounting reports, and read the mail to determine the donor's requests. SJM's Constable employees prepared rosary and scapular kits and sent them to outside volunteers for assembly, which were returned to SJM and shipped to donors upon request. SJM operated the mail order bookstore for religious literature and religious materials, and SJM Constable employees prepared and handled the mail outs of all thank you letters, gifts and newsletters for recipients in the United States.

24. One of the purposes stated in SJM's Certificate of Incorporation and Bylaws is to "maintain a listing, for mailing, of religious books and materials." *See* Exhibit 9, SJM001152, SJM001138. Over the course of years, SJM employees assembled a computerized mailing list consisting of the names and addresses of United States residents, who were donors and supporters of Fr. Gruner and the Apostolate ("SJM's Mailing List"). Of those, approximately 70,000 were active donors and supporters in 2017. These individuals made up the bulk of donations and pledges to SJM. The SJM Mailing List was used for all Fatima Center mailings and distributions in the United States, including mailings to many New York State residents.

25. The SJM Mailing List was recognized as the property of SJM by the boards of both SJM and National Pilgrim at separate board meetings held on January 25, 2005. *See* Exhibit 16, NPV02118(2); Exhibit 17, SJM000390(3).

26. SJM certainly did not forward "all funds" to National Pilgrim, for the pledge clubs or any other designated programs, as claimed in the September 1, 2017 letter. *See* Exhibit 56. Copies of excerpts of SJM's financial records covering the period of 2011 through 2017 are included in Exhibit 21.

27. Donations made to SJM were the majority of revenue for the Fatima Center and SJM carried significant direct expenses in order to operate the Fatima Center. Summaries of SJM's expenses are included in our annual audited financial reports. *See e.g.*, Exhibit 21, SJM001569, SJM001643, SJM001658, SJM001702, SJM001751, SJM001798. Generally, expenses for all activities in the United States were carried by SJM, including the purchasing of materials from National Pilgrim for resale. Surplus donation funds were donated by SJM to National Pilgrim to be used for the benefit of both organizations. SJM maintained oversight over the use of the donated funds through Fr. Gruner and the other dual board members, Fr. Jarecki and Fr. Soroka while they were alive.

28. In addition to carrying the payroll and overhead expenses, SJM paid radio and television broadcasting fees in the United States and paid mass stipends to priests. *See e.g.*, Exhibit 21, SJM001569; Exhibit 17, SJM000433(II) (July 2, 1991 Minutes). SJM paid hotel, insurance, banquet, transportation and speaker fees for conferences held in the United States. SJM paid for pilgrimages to Fatima, Rome and other overseas locations. *See* Exhibit 17, SJM000436 (January 15, 1992 Directors' Rpt). SJM paid for a fundraising consultant to analyze the mailing lists, bring prospective donors and train employees of the Apostolate. *Id.*, SJM001925(12) (March 23, 2004 Minutes), SJM000390(5) (January 25, 2005 Minutes), SJM001930(11) (March 10, 2007 Minutes).

29. SJM also operated St. Joseph's Bookstore, in Kenmore, New York. In November 2014, SJM purchased a building located at 468 19th Street, Niagara Falls, NY 14303 ("SJM's Niagara Falls Facility"), which was intended to be the new location of the St. Joseph's Bookstore, and as a writing and shipping center. *See* Exhibit 17, SJM001967(11), SJM001968(7) (August 21, 2014 Minutes); Exhibits 38 and 40. The storefront bookstore never opened in Niagara Falls but it was used as a second location for SJM's mail order book center, for office space and to store and

warehouse religious materials, publications and literature that were jointly used to promote the message of Our Lady of Fatima and related matters. *See* Exhibit 17, SJM001978-001979 (December 16, 2015 Minutes).

30. All employees in the Constable, Kenmore and Niagara Falls locations were employed by SJM.

31. Under Fr. Gruner's leadership, SJM employees often worked from National Pilgrim's facility in Fort Erie, Ontario. For instance, Cesanek was an employee of SJM who worked from National Pilgrim's offices in Canada for several years before he relocated to Niagara Falls, New York. Joanna Swords, who also signed the August 22, 2017 letter, was an SJM employee for many years working from National Pilgrim's offices. SJM employees working at National Pilgrim's facilities at the time of the separation included James Hanisch and Marie Corpe.

32. SJM did much more than just open and process the mail. SJM directors, employees and contractors, were heavily involved in the "programs to achieve The Fatima Center's mission," including "The Fatima Center literature" for the entire time SJM and National Pilgrim were associated with each other.

33. Fr. Gruner was a member of the SJM board of directors for more than twenty-five years. He certainly did more for "The Fatima Center's mission" than any person who has ever been involved with either organization. Fr. Jarecki and Fr. Soroka also served on both boards for decades and dedicated their time and effort to building the Fatima Center.

34. Cesanek, who signed the August 22, 2017 and September 1, 2017 letters, was an SJM board member and employee who worked very closely with Fr. Gruner on Fatima Center publications and programs. Shortly before National Pilgrim sent out the letters, Cesanek was

announced as the “Vice President of the Fatima Center” and was signing the fundraising letters for the Fatima Center. *See* Exhibit 34; Exhibit 35; Exhibit 53.

35. The president of the SJM board at the time of the separation was Fr. Kramer, who had worked with Fr. Gruner for decades. Fr. Kramer was a frequent writer of *Crusader* articles and regular conference speaker at Fatima Center events. Assorted pieces of Fr. Kramer’s work for the Fatima Center are included in Exhibit 28. Following Fr. Gruner’s death, at a joint meeting of the National Pilgrim and SJM boards each organization adopted a policy that “all material going outside The Fatima Center” was subject to “final approval, release and/or veto” by Cesanek, Fr. Kramer and Coralie Graham. *See* Exhibit 16, NPV14070(12) (May 19, 2015 Minutes); Exhibit 17, SJM001973(13) (May 19, 2015 Minutes).

36. In addition to Fr. Kramer and Cesanek, the SJM board at the time of the separation included Tom Masset, David Skelton and myself. We had each played important roles for many years in building the Fatima Center and pursuing its mission.

37. SJM also paid contractors to implement and promote “The Fatima Center’s mission.” SJM’s contractors included Ed Faust, the primary writer of the Fatima Center fundraising appeals and newsletters, as well as Christopher Ferrara and Joseph “John” Vennari, who were both well known for their writings and speaking engagements in support of Fr. Gruner and the Fatima message. A copy of the pages of SJM’s General Ledger for 2015-2017 which show the total fees paid by SJM for outside professional writers are included in Exhibit 22. For that three-year period, SJM’s payments to professional writers were \$75,000.00, \$80,833.36 and \$86,281.59. *See* Exhibit 22, SJM016349, SJM016552, SJM016697.

38. It is also untrue to claim that SJM was directed, managed or maintained by National Pilgrim’s management team. Despite the separation of the entities, Fr. Gruner had the authority

to hire and manage employees and contractors of both organizations in the chain of command. All Fatima Center employees and contractors of both organizations reported up to Fr. Gruner. Until Fr. Gruner authorized Michael Longval ("Longval") to act as general manager of both National Pilgrim and SJM in 2014, SJM managed all aspects of the Constable operation including hiring, staff supervision, payroll and finances.

39. When Fr. Gruner died, there was no longer a common president or any common directors. SJM allowed Longval to continue in his position as general manager with the understanding that he would answer to me and the SJM board on issues concerning SJM, which he did. Following Fr. Gruner's death, the SJM board tried to keep the collaborative oversight in place as it had been when Fr. Gruner was alive, while also discharging its responsibilities to SJM. Less than one month before National Pilgrim separated from SJM, its leadership proposed that the two organizations form a single board of directors, recognizing that SJM was never "directed" or "maintained" by National Pilgrim. *See* Exhibit 45. Unbeknownst to SJM, however, National Pilgrim was already working to replace SJM. *See* Exhibits 43 and 44.

40. The statements in the August 22, 2017 and September 1, 2017 letters were false and misleading. They also included mischaracterizations of SJM that portrayed SJM in a negative light. Additionally, the letters and the URGENT NOTICE that followed were clearly designed to elicit donations away from SJM and to Fatima Center U.S.A.. *See* Exhibit 57. In addition, SJM's donors became confused and believed that Fatima Center U.S.A. was somehow related to or affiliated with SJM. *See* Exhibit 60.

41. It is my understanding that Fatima Center U.S.A. listed SJM's Niagara Falls Facility as its location on documents filed with New York State. *See* Exhibit 44 and 50. Fatima Center U.S.A. has never had an affiliation with SJM. Fatima Center U.S.A. has never had any

right or permission to enter or use SJM's Niagara Falls Facility; and has never had any right or permission to conduct business at SJM's Niagara Falls Facility.

42. I have reviewed a purported "lease" for SJM's Niagara Falls Facility. *See* Exhibit 48. I had never seen nor heard of this undated "lease" until it was produced by National Pilgrim in this litigation. SJM never authorized Longval to enter into a lease on behalf of SJM. Further, National Pilgrim never claimed that it had a lease for SJM's Niagara Falls Facility, not even when we were in the process of closing operations there. Longval did not even make such a claim when he tried to convince SJM into surrendering the building to National Pilgrim. A copy of Longval's electronic mail message is included in Exhibit 58.

43. It is my understanding that Fatima Center U.S.A. has also received estate bequests that were intended for SJM. For many years, Fatima Center literature encouraged donors to make an estate bequest to SJM in the United States and National Pilgrim in Canada. Often, wills and trusts would name "The Fatima Center" as the beneficiary but for estates in the United States, these were recognized as donations to SJM. When SJM was notified of an estate bequest, the administrative work was handled from National Pilgrim's offices but the funds were received by SJM. These estate funds were used by SJM as part of the general operating funds to cover SJM overhead and expenses and were also included in the funds donated to National Pilgrim to pay for the joint programs carried on by the Fatima Center, like any other donation. Estate funds were never directly turned over to National Pilgrim.

44. SJM never authorized Fatima Center U.S.A. to collect or receive estate bequests intended for SJM. Moreover, Fatima Center U.S.A. and National Pilgrim were never authorized to use SJM's name or other identification for purposes of obtaining donations from estates or any other donor following National Pilgrim's separation from SJM in August 2017. SJM certainly did

not consent or authorize Fatima Center U.S.A. or National Pilgrim to make misrepresentations to estate representatives regarding any affiliation or association with SJM.

45. National Pilgrim and Fatima Center U.S.A. have also misappropriated SJM's Mailing List. For many years through approximately April 2017, SJM's Mailing List was maintained on a software system known as "Donor Tracker." The content and data contained on SJM's Mailing List were entered, created, updated and managed by SJM's employees on SJM's computers, at SJM's offices. SJM employees would run a bridge program daily to transfer newly entered data to National Pilgrim's computer system so that it could be used for joint mailings and publications.

46. In April 2017, National Pilgrim installed a software system on SJM's computers known as "Fatima Tracker" which replaced Donor Tracker as the software used to maintain SJM's Mailing List. Fatima Tracker allowed National Pilgrim to directly access the data in real time without the necessity of a bridge program. Although it was managed on the Fatima Tracker system, SJM's Mailing List has always remained the exclusive property of SJM, as recognized by both boards of directors in 2005. *See* Exhibit 16, NPV02118(2); Exhibit 17, SJM000390(3).

47. When National Pilgrim separated from SJM on August 24, 2017, it also severed SJM's access to the Fatima Tracker software and SJM's Mailing List. On September 16, 2017, SJM's board of directors passed a resolution rescinding National Pilgrim's rights to use the SJM Mailing List. A copy of the SJM resolution is included in Exhibit 59. On September 21, 2017, SJM's counsel notified National Pilgrim in writing that its permission to use SJM's Mailing List had been rescinded and that it must immediately cease use of the list and return it to SJM. *Id.*, SJM001494-001495. National Pilgrim refused to comply and has never returned the list or allowed SJM access to it. *Id.*, SJM 001492-001493. A second demand was sent by SJM's counsel to

Fatima Center U.S.A.'s counsel and National Pilgrim. *Id.*, (Barclay Damon letter dated December 21, 2017, p. 3.) To date, the SJM Mailing List has never been returned and SJM still cannot access it.

48. Efforts to reconstruct the Donor Tracker list have been unsuccessful with only information for approximately 8,000 individuals recovered. Instead, SJM has been forced for the past three years to attempt to recreate the list manually from paper files, but has been unable to reconstruct the list of 70,000 mail recipients. The inability to respond to National Pilgrim's and Fatima Center U.S.A.'s false and derogatory mailings and the cost of attempting to reconstruct the SJM Mailing List have caused a tremendous financial hardship for SJM.

49. National Pilgrim has also not turned over funds to SJM that were designed by donors to fund SJM's Niagara Falls Facility. These funds were raised to help pay for the building, its required repairs and for operating costs. *See Exhibit 40.* Yet, the bulk of those funds were not used for that purpose and SJM is now left paying down the mortgage. *See Exhibit 58.*

50. SJM has also been damaged by Cesanek's disloyalty. In addition to participating in the August 22, 2017 and September 1, 2017 letters, Cesanek was a paid SJM employee and board member when he agreed to become a director of Fatima Center U.S.A., which was formed for the purpose of diverting donations from SJM. He never disclosed to anyone at SJM that National Pilgrim was planning to establish a new non-profit organization to compete with and attempt to replace SJM. He never disclosed that he had been asked to serve on Fatima Center U.S.A.'s board of directors and certainly was not authorized to help establish an organization that has been designed to imperil SJM.

51. SJM did not know of Fatima Center U.S.A.'s existence until SJM's board of directors received an electronic mail from Cecere on August 24, 2017, severing the relationship

between SJM and National Pilgrim. A copy of Cecere's electronic mail message to the SJM board of directors is included in Exhibit 55. During the time that Cecere and Cesanek were planning to replace SJM, significant amounts of money were being transferred from SJM to National Pilgrim to support what SJM believed was still our common mission. SJM General Ledger pages showing 2017 transfers to National Pilgrim are included in Exhibit 20. These records show that nearly \$500,000.00 was transferred from SJM to National Pilgrim accounts between June 19, 2017 and August 24, 2017. During that same time, National Pilgrim had already created Fatima Center U.S.A. and was taking active steps to end our relationship and divert future funds with the assistance of one of SJM's own employees and directors. Minimally, SJM should be reimbursed for those transfers made under false pretenses.

52. The various actions that National Pilgrim, Fatima Center U.S.A. and Cesanek have committed against SJM as set above, and the additional acts forth in the Second Amended Complaint, have been financially devastating for SJM. SJM's revenues for many years averaged well over \$4,000,000.00. *See* Exhibit 21, SJM001569, SJM001643, SJM001658, SJM001702, SJM001751, SJM001798. Since 2017, SJM's revenues are a fraction of what they were in the past totaling \$1,878,046 for all of 2018 and 2019. *See* Exhibit 67, SJM013048, SJM0016903.

53. Finally, I understand that National Pilgrim claims that SJM misappropriated National Pilgrim's property from SJM's Niagara Falls Facility. This claim is untrue. All property located at the SJM Niagara Facility was either purchased by SJM or was being kept there with National Pilgrim's permission for the joint operations of the Fatima Center. Following the separation, National Pilgrim was permitted to remove whatever property it owned. National Pilgrim never claimed that SJM was holding its property or demanded that SJM return any property

that belonged to National Pilgrim. Further, SJM never refused to return any property that was owned by National Pilgrim.

54. Based on the foregoing, SJM respectfully requests that its motion for partial summary judgment be granted.

55. I have read the foregoing and it is the truth.

Ellen Montgomery
Ellen Montgomery

Sworn to before me this
20 day of February 2021

Julien R. Schweitzer
Notary Public

